

EXHIBIT 35

IN THE U.S. DISTRICT COURT FOR MARYLAND,
SOUTHERN DIVISION

+ + + + +

IN THE MATTER OF:

BEYOND SYSTEMS, INC.

Plaintiff,

v.

WORLD AVENUE USA, LLC

Defendants.

Thursday,
September 30, 2010

Pompano Beach, Florida

DEPOSITION OF:

CHRISTOPHER J. CARDONA

called for examination by Counsel for the
Plaintiff, pursuant to Notice of Subpoena, in

the Mumbai Conference Room of the Forum Hotel,
located at 600 SW Third Street, Pompano Beach,
Florida, when were present on behalf of the
respective parties:

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APPEARANCES:

On Behalf of the Plaintiff, Beyond
Systems, Inc.:

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ALSO PRESENT:

CHADD SCHLOTTER

PAUL WAGNER

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1 P-R-O-C-E-E-D-I-N-G-S

2 3:35 p.m.

3 WHEREUPON,

4 CHRISTOPHER JAMES CARDONA

5 having been called as a witness by Counsel for
6 the Plaintiff, and having been duly sworn, was
7 examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. RING:

10 Q Mr. Cardona, my name is Stephen
11 Ring. I'll be asking you some questions.
12 Let me start by asking you your
13 full name.

14 A Christopher James Cardona.

15 Q And where do you live?

16 A In Kendall, Florida.

17 Q Can I have a street address?

18 A 11876 Southwest 79th Lane.

19 Q Are you employed?

20 A Yes.

21 Q And where do you work?

22 A Cruise Planners.

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1 Q What do you do for them?

2 A I sell cruise vacations.

3 Q And how long have you been with

4 them?

5 A Almost two years.

6 Q Have you ever worked for a company

7 known as World Avenue or The Useful?

8 A I -- no.

9 Q Okay. Have you ever worked for

10 any company affiliated with them?

11 A I'm not sure, actually.

12 Q Okay. Well, who did you work for

13 before Cruise Planners?

14 A Before Cruise Planners, I worked

15 for Royal Caribbean.

16 Q And before them?

17 A A company called Niutech.

18 Q And how long did you work for

19 Niutech?

20 A I believe 11 months.

21 Q Do you know when that started and

22 ended?

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1 A To the best of my recollection, I

2 believe it was August 2005 to July 2006.

3 Q And what were your -- what

4 positions did you hold at Niutech?

5 A Email Market -- Email Campaign

6 Manager.

7 Q Did you hold any other position?

8 A No.

9 Q Who did you report to?

10 A When I first started, I reported

11 to Steve Saccone.

12 Q Okay. Anybody else?

13 A And then, afterwards, I reported

14 to Dale Harrod.

15 Q And during what period of time did

16 you report to Steve Saccone?

17 A I honestly don't remember.

18 Q You're not sure where during those

19 11 months that they switched --

20 A It was at the beginning, but I'm

21 not sure when I started reporting to Dale. I

22 can't really recall.

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1 Q Okay. And as an Email Campaign

2 Manager, what did you do?

3 A My role was to send out -- well,

4 first to schedule and send out email

5 campaigns.

6 Q What's an email campaign?

7 A Essentially, sending a creative

8 with an offer of some type and facilitating

9 that through email.

10 Q What do you mean by "a creative"?

11 A An ad, essentially.

12 Q And what's the offer?

13 A The offer could have been whatever

14 it is we were trying to either sell or have

15 people respond to.

16 Q Okay. Is the creative something

17 different than the offer?

18 A It's all part of one thing. I

19 pretty much think it's the same thing.

20 Q Okay. And when you say your role

21 was to schedule the email campaigns, what do

22 you mean by scheduling?

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1 A There would be a number of

2 different campaigns, and I would schedule them

3 so that they wouldn't go out twice in the same

4 day. So I had to schedule them in advance.

5 Q And where did these campaigns go

6 to? To whom were they intended, I should say.

7 A They were intended to people on

8 lists.

9 Q What lists?

10 A Lists that the company had.

11 Q Did the campaigns have a

12 particular size?

13 A Could you clarify?

14 Q Yes. How many email addresses

15 would be involved in a single campaign?

16 A Honestly, I don't know because it

17 wouldn't be sent that way. So I don't know

18 exactly how many would be in a particular

19 campaign.

20 Q Okay. How would you differentiate

21 one campaign from another campaign?

22 A Essentially, there were campaigns

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1 A Possibly.

2 Q All right. What records would

3 show what domain names appeared in those

4 "From" lines?

5 A Well, I guess if there was a way

6 to actually save these emails, I would imagine

7 it would be there.

8 Q Do you know if these emails were,

9 in fact, saved by Niutech?

10 A No, I don't know if they were or

11 not.

12 Q Going back to the tracking of

13 results, one of the elements you said was

14 conversions. What do you mean by conversion?

15 A A conversion is essentially what

16 was the objective of the campaign to buy, to

17 subscribe. Those conversions were tracked

18 that way. So, did they purchase? Did they

19 subscribe? Whatever the offer was offering.

20 Q Okay. What did you do with the

21 data you received in these results?

22 A They would be put in a

Page 59

1 spreadsheet.

2 Q Did you put them into the

3 spreadsheet or --

4 A Yes.

5 Q -- how did that happen? Okay.

6 What was the name of that spreadsheet?

7 A I don't recall the name of it.

8 Q What was that spreadsheet used

9 for?

10 A To report the results.

11 Q Do you know if that spreadsheet --

12 well, first of all, what period of time was

13 covered by that spreadsheet?

14 A It was an evolving spreadsheet. I

15 do believe they were saved by either day or

16 week. So there were multiple spreadsheets.

17 Q Now when you told me earlier that

18 there were roughly three or four campaigns a

19 day, were you talking about campaigns that you

20 personally would send or that the entire email

21 department would send?

22 A Well, essentially, the department

Page 60

1 would work off one calendar, so there wasn't

2 duplication. So it would be based on the

3 entire department.

4 Q What records would show the volume

5 of emails sent out in each campaign?

6 A Well, I mean, there must have been

7 some, you know, probably saved in the

8 database, I'm assuming.

9 Q You referred to physical addresses

10 that appeared in the emails. Do you know,

11 first of all, what were those physical

12 addresses?

13 A Do you mean the actual address?

14 Q Yes, if you recall.

15 A I don't recall.

16 Q Were they the office address where

17 you were working?

18 A I don't believe so.

19 Q Did they belong to physical

20 offices where Niutech employees worked?

21 A Again, I don't know.

22 Q Do you know if they were UPS

Page 61

1 boxes?

2 A I don't know. They were just the

3 addresses that were in the creative.

4 Q Did your job entail handling any

5 responses from the recipients of emails?

6 A No.

7 Q So you would never have seen any

8 physical mail, for instance, that was sent to

9 those physical addresses?

10 A No.

11 Q Is that correct? I asked the

12 question poorly. I should say, am I correct

13 in understanding that you did not handle any

14 of the physical mail that went to those

15 physical addresses? Is that correct?

16 A By physical, you mean postal mail?

17 Q Postal mail, yes.

18 A Yes.

19 Q Okay. Do you know of a company

20 called World Avenue USA, LLC?

21 A Yes.

22 Q How do you know of it?

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1 A When I was working at Niutech, my
2 understanding was that was a new brand that
3 they developed.

4 Q Who's they?

5 A They, the company, Niutech.

6 Q Have you heard of the name The
7 Useful, LLC?

8 A Yes.

9 Q And what do you understand that to
10 be?

11 A My understanding was The Useful
12 was kind of the name before it was Niutech.

13 Q Did you receive a paycheck while
14 you worked at Niutech, I assume?

15 A Yes.

16 Q And was it a paper check or
17 electronic?

18 A Direct, direct deposit.

19 Q Direct deposit. And did you
20 receive some kind of a voucher or confirmation
21 that went along with the electronic or direct
22 deposit?

Page 63

1 A Yes.

2 Q Okay. And was the name of the
3 employer on the voucher?

4 A To the best of my knowledge, yes.

5 Q What was the name of the employer?

6 A Niutech.

7 Q Did that change at all during your
8 11 months?

9 A I don't believe so.

10 Q Okay. Are you aware of any other
11 entities, corporate entities, being housed in
12 the same offices with Niutech during the 11
13 months you were there?

14 A No.

15 Q Do you recall the names of any
16 other individuals who worked at the Broken
17 Sound address, whether in your department or
18 not, besides Mr. Saccone and Mr. Harrod?

19 A Names of personnel?

20 Q Yes.

21 A Yes.

22 Q Who do you recall?

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1 A Well, the boss of the company,
2 Niuniu. That was really the ones that I can
3 recall off the top of my head.

4 Q So Niuniu Ji, who was the head of
5 the company, is that right?

6 A Yes. Well, that was my
7 understanding that, yes, he was.

8 Q And you also knew Mr. Saccone, Mr.
9 Harrod. Do you recall any other names?

10 A There was a gentleman named Eric
11 that was in our department.

12 Q Do you recall his last name?

13 A No.

14 Q Anybody else you recall?

15 A No.

16 Q Did you ever look -- I don't know
17 if I finished asking you. I started to ask
18 you a question based on what you saw before
19 the emails went out. Did you look at the
20 emails before they went out in the campaign?

21 A Yes.

22 Q Why did you look at them?

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1 A To make sure everything was there,
2 all the pieces were there.

3 Q Did you save that image after it
4 was all assembled?

5 A No.

6 Q What was the next step after
7 looking at the image to make sure it was all
8 assembled before the campaign went?

9 A That was really the last step in
10 the process, to make sure you didn't miss
11 something.

12 Q Was any entry or mark made on the
13 calendar after a campaign was sent?

14 MR. SAUNDERS: Objection as to
15 form.

16 THE WITNESS: By mark, what do you
17 mean?

18 BY MR. RING:

19 Q "X", a checkmark, "done",
20 "completed", any kind of notation or
21 indication of the status of the campaign after
22 it was sent?